

STATE OF NEW JERSEY
BUREAU OF SECURITIES
153 Halsey Street
P.O. Box 47029
Newark, New Jersey 07101
(973) 504-3600

IN THE MATTER OF: :

Philip Subhan, :
CRD # 1244246 :

SUMMARY BAR ORDER

Respondent. :

Philip Subhan
43 Disbrow Hill Rd.
Hightstown, NJ 08520-6128

Pursuant to the authority granted to the Chief of the New Jersey Bureau of Securities (“Bureau”) under the Uniform Securities Law, as amended, L. 1997, c. 276, N.J.S.A. 49:3-47 *et seq.* (“Law”), more particularly, N.J.S.A. 49:3-56, and after careful review and due consideration of :

- 1) Indictment, 03-05-0075-S, State of New Jersey v. Philip Subhan, New Jersey Superior Court, Criminal Division, Mercer County Signed May 7, 2003 (“Indictment”).
- 2) Judgment, 03-05-0075-S, State of New Jersey v. Philip Subhan, New Jersey Superior Court, Criminal Division, Mercer County, May 25, 2004 (“Judgment”),

the Bureau Chief makes the following findings of fact:

1. Philip Subhan (“Subhan”), residing at 43 Disbrow Hill Rd., Hightstown, New Jersey

08520-6128, was registered with the Bureau as an agent of American Express Financial Advisors, Inc. ("AEFA", CRD #6363) from June 16, 1987 to July 12, 2001.

2. Beginning in approximately 1997, while working for AEFA, Subhan became the adviser for Sandra Kelly ("Kelly"), a client he shared with his partner Victor Mowat ("Mowat", CRD# 341765), another AEFA adviser. At the time, Ms. Kelly was approximately 90 years old, legally blind and living at an assisted care facility in Hightstown, New Jersey.

3. Subhan, together with his partner Mowat, began to make unauthorized liquidations of Kelly's AEFA and private bank accounts for a total of approximately \$250,000.00. The bulk of the liquidated assets were transferred to a personal bank account controlled by Mowat and his wife, Margaret Mowat, on May 20, 1998. Thereafter, Ms. Kelly's money was used to fund brokerage accounts at Charles Schwab & Co. Inc. ("Schwab") in the name of Margaret Mowat, but controlled entirely by Subhan. The Schwab accounts posted losses and were quickly liquidated by Subhan.

4. On May 7, 2003, Subhan was indicted on two (2) counts of Theft of Moveable Property in the 2nd Degree in violation of N.J.S.A. 2C:20-3(a); two (2) Counts of Misapplication of Entrusted property in the 2nd Degree in violation of N.J.S.A. 2C:21-15; two (2) counts of Financial Facilitation of Criminal Activity in the 2nd Degree in violation of N.J.S.A. 2C:21-25(b); two (2) counts of Theft by Unlawful Taking in the 3rd Degree in violation of N.J.S.A. 2C:20-3(a); and two (2) counts of Misapplication of Entrusted Property in the 3rd Degree in violation of 2C:21-15.

5. On July 7, 2003, Subhan's attempt to plead guilty was rejected.

6. On March 11, 2004, pursuant to a jury trial, Subhan was found guilty and

convicted on all ten counts. On April 30, 2004, Superior Court Judge Maryann Bielanowicz sentenced Subhan to 13 years incarceration and ordered him to pay restitution in the amount of \$250,000.00 and additionally to pay \$110,000.00 in restitution jointly and severally with Mowat.

7. Pursuant to N.J.S.A. 49:3-56(k), "[t]he bureau chief may summarily bar...any person, who has been convicted of any crime of embezzlement . . . or any crime involving any theft, forgery or fraudulent practices in regard to any state, federal or foreign securities .. laws or anti-fraud laws, from being a partner, officer or director of an issuer, broker-dealer or investment adviser, or from occupying a similar status or performing a similar function or from directly or indirectly controlling or being under common control or being controlled by an issuer, broker-dealer or investment adviser, or from acting as a broker-dealer, agent or investment adviser in this State."

8. Based on the foregoing, Subhan's bar from the securities industry in New Jersey is in the public interest, pursuant to N.J.S.A. 49:3-56(k) and necessary for the protection of investors.

For the reasons stated above, it is on this 26th day of September, 2005 ordered that Philip Subhan be and hereby is, summarily barred pursuant to N.J.S.A. 49:56(k) from being a partner, officer, or director of an issuer, broker dealer or investment adviser or from occupying a similar status or performing a similar function or from directly or indirectly controlling an issuer, broker-dealer or investment adviser, or from acting as a broker dealer, agent or investment adviser or from being employed or associated with a broker dealer or

investment adviser in any capacity in the State of New Jersey and;

It is further ordered that Philip Subhan is permanently barred from distributing, offering, selling, offering to sell, negotiating, promoting, advertising or issuing any security in or from the State of New Jersey and;

It is further ordered that the exemptions to the registration requirements provided by N.J.S.A 49:3-56(a) (b) (c) and (g) are hereby denied.

DATED: 26 September 2005 By: Franklin L. Widmann
Franklin L. Widmann
Chief, Bureau of Securities

NOTICE OF RIGHT TO HEARING

Pursuant to N.J.S.A. 49:3-56(k), any person barred by this subsection shall be entitled to request a hearing by the same procedures as set forth in subsection(c) of N.J.S.A. 49:3-50. Pursuant to N.J.S.A. 49:3-50(c)(1), upon service of the order issued by the Bureau Chief, the respondent shall have up to 15 days to respond to the Bureau in the form of a written answer and written request for a hearing. The Bureau Chief shall, within five (5) days of receiving the answer and a request for a hearing, either transmit the matter to the Office of Administrative Law for a hearing or schedule a hearing at the Bureau. Orders issued pursuant to subsection (c) shall be subject to an application to vacate upon 10 days' notice, and a preliminary hearing on the order shall be held in any event within 20 days after it is requested; and the filing of a motion to vacate the order shall toll the time for filing an answer and written request for a hearing.

Pursuant to N.J.S.A. 49:3-50(c)(2) if a respondent fails to respond by either filing, a written answer and written request for a hearing with the bureau or moving to vacate an order within the 15 days prescribed period, the respondent shall be deemed to have waived the opportunity to be heard. The Order will remain in effect until modified or vacated upon notice to all interested parties by the Bureau Chief.

NOTICE OF OTHER ENFORCEMENT REMEDIES

You are advised that the Uniform Securities Law (1997), N.J.S.A. 49:3-47, provides several enforcement remedies which are available to be exercised by the Bureau Chief, either alone or in combination. These remedies include, in addition to this action, the right to seek and obtain injunctive and ancillary relief in a civil enforcement action, N.J.S.A. 49:3-69.

You are further advised that the entry of this Order does not preclude the Bureau Chief from seeking and obtaining other enforcement remedies against you in connection with the claims made against you in this action.